

Altman Prosecutors Failed to Clear

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The jury forewoman in Robert A. Altman's BCCI trial wouldn't even look at lead prosecutor John W. Moscow when he delivered his closing statement in the case last week.

It was a sign of things to come.

The New York jury of eight women and four men showed its distaste for the prosecution's case when it delivered a verdict late Saturday acquitting Altman of all charges of bank fraud and filing false documents when he was president of Washington's First American Bankshares Inc.

"I was insulted," the forewoman, Barbara Conley, said of the prosecution's failure to present a plausible case during the five months of trial and examination of 45 prosecution witnesses. The

case was so flimsy, in fact, that the defense rested without calling any witnesses.

How could it have happened? The Altman trial was supposed to be the culmination of a four-year investigation of the shadowy Bank of Credit and Commerce International and how it came to own First American illegally. But instead

of finally casting a clear light on the BCCI saga, the trial chiefly demonstrated how little anybody really understands about BCCI—and how much trouble the prosecutors had explaining their version of the story to 12 women and men.

Instead of answers, the long BCCI trial chiefly added more questions, chief among them: Why did the prosecution stumble so badly?

After an investigation that cost millions of dollars, how is it that the prosecution still couldn't

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Up BCCI Picture

provide a clear account of how or when BCCI bought First American through front men? Did Manhattan District Attorney Robert M. Morgenthau, 72, who has been probing foreign bank swindlers for 40 years, allow his passion to become zealotry in the prosecution of Altman and former defense secretary Clark M. Clifford?

Or, as defense lawyers contend, is the case murky partly because federal regulators were part of the coverup of BCCI's takeover of First American and three other U.S. banks? For example, the defense submitted a memo from a Federal Reserve official that showed that regulators knew about millions of dollars in loans from BCCI to First American shareholders—without taking any steps to stop them.

No one ever said the Altman case would be an

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easy one. When Morgenthau announced the indictments a year ago, he admitted that the prosecutors were dealing with "documents without witnesses and witnesses without documents."

Yet Morgenthau's office believed it could win a highly circumstantial case of bank fraud against Clifford, one of Washington's legendary lawyers and presidential advisers, and his younger law partner Altman. The two men were chairman and president of First American, and were also lawyers for BCCI for a decade. Surely, the prosecutors reasoned, the two lawyers had helped engineer a BCCI takeover of the Washington bank, in violation of U.S. banking laws.

But the missteps of the prosecutors in making this case were clear in the comments of the jurors. After they had tearfully hugged Altman and his wife, actress Lynda Carter, they said they hadn't trusted the prosecution witnesses from BCCI because they were admitted crooks. And they put no faith in the banking regulators who appeared, because of evidence that they knew about BCCI's involvement in First American early on, but did nothing about it.

In addition, the prosecution's long-winded and haphazard case failed to present any direct evidence

that Altman knew that BCCI owned First American or that special loans Clifford and Altman received from BCCI were "bribes." The judge ordered the bribe count dropped even before the jury could consider it.

"It was a theory in search of evidence," said defense lawyer Mitchell S. Ettinger of the prosecution. "It's not a case of the prosecution going awry," he said. "The problem was that the theory was unsupportable. . . . The allegations weren't true."

"You reach a point where you say 'these are our witnesses,'" Gerald McKelvey, a spokesman for Morgenthau, said yesterday. "We put the case that we thought was appropriate before the jury. The jury decided otherwise."

The two witnesses who could have told the full story—BCCI founder Agha Hasan Abedi and his top lieutenant, Swaleh Naqvi—have never been interviewed by investigators. Both are in the Middle East—Abedi in Pakistan and Naqvi in Abu Dhabi—and state and federal prosecutors are still struggling without success to arrange their extradition.

With no Abedi and Naqvi to turn to, the prosecutors relied on witnesses who were less than reliable. Some of their witnesses were also more friendly to the defense than to the prosecution.

One of the biggest blunders of the prosecution's case may have been calling Griffin Leshner to the witness stand. Leshner, a lawyer who handled much of the legal work for BCCI and who still works in Altman's law office in Washington, testified that Altman relied on the advice of other regulatory lawyers in filing accurate descriptions of who the shareholders were.

Prosecutors promised that those other lawyers, including Baldwin Tuttle of Washington and Martin Lipton of New York, would be brought to the stand. But neither was ever called.

In addition, the defense team that included Gustave H. Newman, William Shields and Ettinger simply tore apart the government's witnesses on cross-examination. One lawyer familiar with the case said Altman's own formidable legal skills and inside knowledge of the case also had a lot to do with the defense's victory.

The prosecution was simply no match for Altman's team, led by Newman, a leading criminal defense lawyer for 40 years. In addition to

Moscow, who had been Morgenthau's lead investigator, the prosecution included Richard Pries of the district attorney's office and Anthony Leffert of the Justice Department.

Some in Morgenthau's office had tried to convince him that Moscow, a dogged investigator, was not the man to try the case.

"There is no one in our office who knows John who would fault him for the way he conducted this case," said McKelvey, who is quick to point out that the Altman case was only one part of the office's BCCI work. The investigation has led to guilty pleas by five individuals and five corporations and fines and forfeitures of about \$750 million.

And Morgenthau is still investigating. "In no way is the investigation going to stop," McKelvey said. "In no way is it going to slow down."

Yet, two years after BCCI was shut down around the world for

fraud and money laundering, its ability to infiltrate the U.S. banking system seems as much a mystery as ever.

Altman himself said after the verdict: "The true facts about the ownership [of First American] are still very murky. But BCCI did not control the bank."

A sign of the continuing confusion: Justice Department officials and banking regulators say they do not know, even now, exactly how much First American stock was owned by BCCI.